n.8), asserting that *Vorhees* "involved only the effort of a neighboring property owner to assert state law claims to control the airport's use of its own property."

The Commission's assertion is false: the neighboring property owner in *Vorhees* also relied on state law to prevent the airport from using "the airspace superadjacent to his lands." U.S. Br. 11. If such airspace was the airport's "own property" in *Vorhees*, then the approach surface and clear zone are similarly the airport's "own property" here.

More importantly, however, the Commission ignores the *substance* of the United States' position—that "States may not manage the airspace" because federal authorities have "exclusive sovereignty over navigable airspace," and that state regulation "would seriously interfere with public air travel and undermine the exclusively federal regulatory scheme." *Id.* at 6, 10, 12. Quite apart from the facts of *Vorhees*, this position confirms that the decisions below are out of step with the requirements of federal law.

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The exclusive federal interest in regulating the airspace—an interest articulated by Congress in legislation and defended by the United States in litigation—is necessary to ensure the safety of air travel nationwide. When state and local regulations stand in the way of an airport's compliance with federal law, the threat to air safety is as significant as the offense to federal authority. Respondents have offered no reason to ignore this threat to air safety, the plain language of the Federal Aviation Act, the position of the United States, or the mature conflict among state and federal courts on the scope of preemption in this context.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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